HON'BLE SRI JUSTICE BILAL NAZKI, ACTING CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE G. CHANDRAIAH

W.A. No. 855 of 2005

Date of Judgment: 21.10.2005

Between:

M. Waheeda Begum

…Appellant

and

The Secretary, A.P. State Council of Higher Education,
Saifabad, Hyderabad and another

…Respondents

HON'BLE SRI JUSTICE BILAL NAZKI, ACTING CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE G. CHANDRAIAH

W.A. No. 855 of 2005

JUDGMENT: (Per Hon'ble Sri Justice Bilal Nazki, ACJ)

This appeal is filed against the order passed by learned single Judge of this Court in W.P.No. 24520 of 2004 by the unsuccessful writ petitioner. The petitioner applied for admission into B.Ed. course in the 2nd respondent institution which is an approved institution with minority status. She appeared for EDCET-2003 and secured 61 marks out of 150 marks. The petitioner claimed that she was given admission which was approved by the Department of Minority Welfare, Hyderabad. She paid the necessary fee and was prosecuting studies from 15.4.2004. The 1st respondent, in the meanwhile, by a telegram dt. 16.12.2004, informed the 2nd respondent institution that three candidates including the petitioner were deleted from the list of candidates who were admitted during the academic year 2003-04 in the 85% minority quota. The reason for cancelling the admission of the petitioner was that she was ineligible for admission since she secured only 44.41% marks in part-II at degree level. The petitioner filed a writ petition challenging the cancellation of her admission on the ground that the rule prescribed by the State Government that the candidate should have 45% marks in part-II at degree level was contrary to section 4 of the A.P. Educational Institutions (Regulation of Admission and Prohibition of Capitation Fee) Act, 1983 (for short "the Act").

In the counter it was stated that the merit list furnished by the Management contained the names of candidates and the petitioner was at serial No. 27 and it was shown that she secured 48% marks in part-II at degree level. However the merit list was not approved by the Minority Welfare Department. Certificates of the petitioner were not furnished along with the merit list. However, on verification, it was observed that the petitioner had not secured 48% marks as shown in the merit list, but she had secured 44.41% marks in part-II. The case of the petitioner was that since she belongs to a minority community and she had secured admission in minority institution, therefore it was

not necessary for her to secure 45% marks. She has placed reliance on Section 4 of the Act which reads as under,

> "Sec. 4. Special provision in respect of minority educational institutions:- (1) Notwithstanding anything in Section 3, it shall be lawful for any minority educational institution to admit students belonging to the concerned minority whether based on religion or language, on the basis of the marks obtained by them in the qualifying examination or as the case may be, on the basis of the ranking assigned to them in the entrance test conducted in the prescribed manner.
>
> (2) Where any minority educational institution intends to admit students not belonging to the concerned minority, such admission shall be only on the basis of the marks obtained in the qualifying examination or as the case may be, on the basis of the ranking assigned in the entrance test conducted in the prescribed manner."

In our view, this Section does not entitle the petitioner to secure admission, although she had not the requisite percentage of marks for sitting even in common entrance test because Section 7 of the same Act lays down that the candidates who have secured an aggregate of 45% marks and above in part-II (group subjects) are alone eligible for admission into B.Ed. courses. An exception has been created in favour of SC/ST candidates and nobody else. Even under the Central Government norms the eligibility has been laid down and candidates possessing at least 45% marks in the Bachelor/Masters Degree examinations are only eligible to get admission in B.Ed. courses. Since the petitioner has admittedly secured less than 45% marks in the qualifying examination, she was not eligible even to sit in the common entrance test. It had been made clear even in G.O.Rt.No. 169, dt. 5.2.2004 by which the procedure for B.Ed. course admission for the academic year 2003-04 was notified. It is stated in para-7 (c) of the G.O.,

> "Candidates who have passed the qualifying examination i.e., B.A./B.Sc./B.Com/B.Sc. (Home Science)/BCA/BBM with an aggregate of 45% marks and

above in part-II (group subjects) are alone eligible for admission into B.Ed. courses. However, in case of SC/ST candidates a mere pass is sufficient. A separate order will be issued with regard to group subjects for consideration for admission to different methodologies."

For these reasons, we do not find merit in this writ appeal which is accordingly dismissed. No costs.

_____

BNJ.

Dt. 21.10.2005

KR

_____ GCJ.